



SB 173 requires bookkeeping requirements and conduct requirements in the operation of sales. These include:

- The accounting functions related to the product are maintained separately from all other activities of the local government.
- All revenues from the sale of the product shall be kept in a separate account from all other local government funds.
- Sale of the product will not be subsidized by the local government.
- The product shall not be priced below the cost of providing the product for sale to the public. In calculating the cost of the product, the equivalent cost of capital for a private competitor, and an amount that a private competitor would pay in taxes, licenses, fees, and other assessments must be included.

SB 173 requires local governments to pay annually in kind taxes to all taxing jurisdictions in which it operates based on the equivalent of all taxes, fees, and other assessments that private-sector C corporation would pay.

SB 173 requires the preparation of a statement of resource allocation identifying the venture and detailing the shared resources including the monetary value of those resources used by both the local government and the venture selling the product.

SB 173 provides that the requirements regarding the study, public meetings, accounting, shall be suspended in the event of a gubernatorial declaration of a state of emergency regarding the boundaries of the local government.

SB 173 defines “commercial product” as any product used by the general public and that has historically been sold, leased, or licensed to the general public by a retail establishment.

“Commercial product” does not include:

- Products authorized by the Kentucky Revised Statutes to be provided by local governments;
- Seasonal products sold for fundraising purposes by local governments;
- Products that generate less than \$25,000 annually;
- Products that are ancillary to or in conjunction with the provisions of a government service;
- Utility services including broadband, information technology, and cable;
- Products with no private alternative available to the general public

SB 173 defines “local government” to be inclusive of all forms of local government including a political subdivision therein or a corporation created by or on behalf of a local government.

SB 173 also provides near-identical requirements for state entities selling commercial products. The state impact is outside the scope of this local mandate.

### **Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost**

**The fiscal impact of SB 173 on local government is indeterminable but is expected to be significant.**

SB 173 is considered by the Kentucky League of Cities (KLC) to be counter to local home rule, and as such, may have a significant financial impact on Kentucky cities. The first issue relates to the definition of “commercial product.” Per KLC, this definition is very broad.

While offering these products, cities will be required to perform an economic impact study of their actions. This study may require the use of outside economic consultants, with more costs due to an additional publication requirement as well.

If a local government starts or continues to offer the commercial product, then potential administratively burdensome accounting requirements may be added by SB 173, in addition to payments in lieu of taxes to the city, county, state, and other local taxing districts. These taxes include at least the following:

- Property taxes to the city, county, school district, state, and any special district assessments.
- Insurance premium taxes to the city, county, and state.
- Occupational license taxes (payroll, net profits and/or gross receipts) to the city, county, and school district.
- Income taxes to the state and federal governments.
- Sales and use taxes to the state.

KLC states that all commercial products sold by local governments would not only be audited by public sector accounting standards under SB 173, but taxes would need to be computed as if they were a separate, private corporation. This is to calculate what income taxes are owed to the state and federal governments and what sales taxes are owed to the state government. Cities would then be required to prepare and publish a statement of resource allocation outlining the resources shared for commercial and noncommercial uses. In addition, any commercial products sold would have to be 100 percent self-supported, without any subsidized funds from other governmental operations or revenue sources.

KLC also notes that SB 173 may capture many products within its scope, at a considerable expense to taxpayers. KLC anticipates that this legislation would have both a significant financial impact and a significant administrative impact on city governments.

**Data Source(s):** Kentucky League of Cities, LRC Staff

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